

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

**IN THE MATTER OF THE COMPLAINT
OF PPG INDUSTRIES, INC., AS OWNER
OF THE TANK BARGE PPG 214 FOR
EXONERATION FROM AND/OR
LIMITATION OF LIABILITY**

www.pearsoned.com

NO. 3:12-cv-00348

Admiralty, Rule 9(h)

ANSWER OF ERIC MOORE

To the Honorable District Court:

COMES NOW Eric Moore, and for his Answer to the Complaint of Petitioner PPG Industries, Inc. ("Petitioner") respectfully shows the following:

Category	Number of people
None	8
Some	2

In accordance with FED. R. CIV. P. Rule 12 and Supplemental Rule F, Eric Moore specifically responds to the averments in the Complaint as follows:

1. Eric Moore admits the allegations contained in paragraph 1.
2. Eric Moore does not have knowledge or information sufficient to form a belief as to the truth of the statements made in paragraph 2, except the second sentence, which is admitted.
3. Eric Moore does not have knowledge or information sufficient to form a belief as to the truth of the statements made in paragraph 3.
4. Eric Moore admits the statements in the first sentence of paragraph 4, and denies the remainder for lack of sufficient information to form a belief as to their truth.
5. Eric Moore admits the statements in the first sentence of paragraph 5 and denies the remainder for lack of sufficient information to form a belief as to their truth.

6. Eric Moore admits the statements in the first sentence of paragraph 6 and denies the remainder for lack of sufficient information to form a belief as to their truth.

7. Eric Moore denies the statements in paragraph 7 for lack of sufficient information to form a belief as to their truth.

8. Eric Moore denies the statements in paragraph 8 for lack of sufficient information to form a belief as to their truth.

9. Eric Moore denies the statements in paragraph 9 for lack of sufficient information to form a belief as to their truth.

10. Eric Moore denies the statements in paragraph 10 for lack of sufficient information to form a belief as to their truth.

11. Eric Moore denies the allegations in paragraph 11.

II.

Subject to and without waiving the foregoing, Eric Moore asserts the following affirmative defenses:

a. **No Right to Exoneration from Liability.** Pleading further and in the alternative, Eric Moore alleges and contends that Petitioner is not entitled to exoneration from liability under the Limitation of Liability Act, 46 U.S.C. §§30501-30512, because Petitioner, its principals, agents, servants, and/or employees, were negligent in the operation of the PPG 214, which was a proximate cause of the incident giving rise to this lawsuit.

b. **No Right to Limitation of Liability.** Pleading further and in the alternative, Eric Moore alleges and contends that the incident made the basis of this lawsuit was caused in whole or, in the alternative, in part, by the negligence of Petitioner, its principals, agents, servants, and/or employees, which occurred

within the privity and knowledge of Petitioner, its principals, agents, servants, and/or employees. Accordingly, Petitioner cannot limit its liability under the Limitation of Liability Act.

c. **Insufficient Limitation Fund.** Pleading further and in the alternative, Eric Moore alleges and contends that the Limitation Fund, as established in the Complaint, is inadequate and should be increased by this Honorable Court.

d. **Acts of Third Parties.** Pleading further and in the alternative, Eric Moore alleges and contends that the incident and/or damages of which Petitioner and/or others complain, if any, were entirely and solely caused by the acts or omission of third persons for which Eric Moore is not legally responsible.

III. Prayer and Conclusion

THEREFORE, for the above stated reasons, Eric Moore respectfully requests that this Honorable Court: (i) dismiss Petitioner's Complaint; (ii) deny Petitioner exoneration from liability; (iii) deny Petitioner the right to limit its liability; (iv) enlarge the Limitation Fund; and (v) grant all other relief, in law, equity, or admiralty, to which he proves himself justly entitled.

Respectfully submitted,

/s/ F. William Mahley

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Attorney-in-Charge for Eric Moore

**OF COUNSEL
STRASBURGER & PRICE, LLP**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served upon all known counsel of record via ECF filing pursuant to the Federal Rules of Civil Procedure on this the 13th day of February 2013.

/s/ F. William Mahley

F. William Mahley